United Nations ECE/CP.TEIA/WG.1/2015/3

Economic and Social Council

Distr.: General
27 February 2015

Original: English

Economic Commission for Europe

Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents

Working Group on the Development of the Convention

Fifth meeting
Geneva, 11–13 May 2015
Item 2 of the provisional agenda
Workplan and organization of work for 2015–2016

Proposed workplan and organization of work for the Working Group on the Development of the Convention for 2015–2016

Note by the secretariat, prepared in cooperation with the Chair of the Working Group on Development

Summary

The Working Group on Development will be invited to discuss and agree on its proposed workplan and organization of work for the period up to the ninth meeting of the Conference of the Parties. The Working Group will also be invited to discuss and adopt the draft terms of reference of two expert groups to support it in carrying out its mandate: a small group of legal experts (annex I) and a small group of experts on land-use planning (annex II).

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I. Introduction

A. Amendment

1. At its eighth meeting (Geneva, 3–5 December 2014) the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) requested the Working Group on the Development of the Convention (Working Group on Development) to prepare a draft amendment on articles 1, 9, 18 and 29, considering also related provisions of and annexes to the Convention, to be ready for review and possible adoption at the ninth meeting of the Conference of the Parties in the fourth quarter of 2016. In order to allow sufficient time for consultation on the amendments at the national level, the Conference of the Parties requested that the draft amendment be presented in spring/early summer 2016 at the latest and that the Working Group organize its work accordingly.

2. The Working Group was also requested to prepare draft text to open the Convention for accession by Member States of the United Nations beyond the United Nations Economic Commission for Europe (ECE) region, as part of the above amendment. At the same time, it was asked to thoroughly consider the potential benefits and challenges, including possible budgetary implications, of opening the Convention beyond the ECE region and to present the outcome of its considerations to the Conference of the Parties at its ninth session.

3. In tasking the Working Group, the Conference of the Parties stressed the importance of presenting all of the proposed changes to the Convention, including opening the Convention for accession by States outside the ECE region, as part of the same package.

B. Guidance by the Conference of the Parties

4. In addition, the Conference of the Parties decided that guidance on selected provisions of the Convention should be developed by the Convention's subsidiary bodies.

1. Provisions related to land-use planning

5. The Conference of the Parties requested the Working Group to review a draft guidance document on land-use planning, to be drawn up with external expertise, for possible adoption at the ninth or, alternatively, tenth meeting of the Conference of the Parties. The guidance document should:

(a) Clarify the link between the general provisions of the Convention in article 3, paragraph 1, and the land-use planning/siting procedures in article 7 of the Convention;

(b) Explain how the notion of land-use plans and programmes used in other relevant international multilateral environmental agreements and legal instruments applies to the Convention's provisions on the siting of hazardous activities;

(c) Be aligned with the provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the Seveso III Directive.[1]

6. The European Investment Bank (EIB), the lead organization for the development of this guidance document, will finance its development by a consultant.

2. Clarifying the scope of mutual assistance

7. The Conference of the Parties also requested the Working Group to prepare a draft decision to clarify the scope of mutual assistance set out in article 12 of the Convention, outlining to what extent mutual assistance refers to any industrial accident or to industrial accidents with transboundary effects only, for review and possible adoption by the Conference of the Parties at its ninth meeting.

3. Provisions on the review of compliance

8. The Conference of the Parties further requested the Working Group, in cooperation with the Working Group on Implementation and paying due regard to the mandate and functioning of that body, to consider the introduction of a compliance mechanism and to prepare a possible draft decision for review and possible adoption at the ninth meeting.

9. In fulfilling the above tasks, the Conference of the Parties specified that the development of amendments should have precedence over the development of guidance, should there be a need to prioritize work.

II. Proposed organization of work for the Working Group for 2015–2016

10. It is proposed that the Working Group hold three meetings in the period 2015–2016, as follows:

(a) Fifth meeting (Geneva, 11–13 May 2015) (two and a half days);

(b) Sixth meeting (Geneva, 30 November–2 December 2015) (two and a half days);

(c) Seventh meeting (Geneva, 11–14 April 2016, to be confirmed) (four days, including a one-day joint workshop on land-use planning and siting of hazardous activities with the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment under the Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol on Strategic Environmental Assessment).

11. It is also proposed that, at its first meeting in the 2015–2016 period, the Working Group adopt its workplan for the period and consider the establishment of two small groups of experts to support its work, as follows:

(a) A small group of legal experts to support the deliberations of the Working Group on legal matters, in particular with regard to clarifying the scope of mutual assistance and the establishment of a compliance mechanism (see annex I);

[1] Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

(b) A small group of experts on land-use planning to review the preparation of a guidance document on land-use planning by a consultant and to support the organization of the joint workshop to exchange experiences on land-use planning and siting of hazardous activities referred to above (see annex II).

III. Proposed workplan for the Working Group for 2015–2016

12. Based on the mandate received and the proposed organization of work for 2015–2016, the Working Group might consider discussing the topics in the sequence proposed in sections A — C below.

A. Fifth meeting

13. Further to the agenda for its fifth meeting (ECE/CP.TEIA/WG.1/2015/1), the Working Group is expected to agree on the organization of work of its three meetings in 2015–2016 and its workplan for that period, to start the discussion on draft text of the amendment to the Convention and to lay the groundwork for the development of guidance by the Conference of the Parties. It is further expected to commence the discussion of issues related to the opening of the Convention, on the basis of background information provided by the secretariat. The Working Group will be invited to consider establishing a small group of legal experts and a small group of experts on land-use planning to support its work.

B. Sixth meeting

14. At its sixth meeting, the Working Group may wish, inter alia, to:

(a) Review the updated draft amendment and agree on the text for submission to and review by the Conference of the Parties at its ninth session;

(b) Continue the discussion on aspects related to the opening of the Convention, following the discussions and agreement at the Working Group's fifth meeting;

(c) Further consider the preparation of guidance by the Conference of the Parties, on the basis of background information by the secretariat, in particular:

(i) To review the outline and elements for the guidance document on safety and land-use planning to be prepared by a consultant;

(ii) To continue the discussion on the scope of mutual assistance with the aim of reaching final agreement on a draft decision for review and adoption by the Conference of the Parties at its ninth meeting;

(iii) In case of an affirmative decision to introduce a compliance mechanism, to discuss the updated draft terms of reference of the Working Group on Implementation with compliance elements, in cooperation with the small group of legal experts and the Working Group on Implementation.

C. Seventh meeting[2]

15. At its seventh meeting, the Working Group may wish to undertake, inter alia, the following tasks:

(a) Finalizing its consideration of issues linked to the opening of the Convention, i.e., with regard to potential benefits and challenges including possible budgetary implications;

(b) Finalizing the draft guidance by the Conference of the Parties, in particular:

(i) Undertaking a review of the updated draft guidance document on safety and land-use planning to be prepared by a consultant;

(ii) If it is decided to introduce a compliance mechanism, agreeing the proposed revised terms of reference for the Working Group on Implementation, incorporating the necessary compliance elements, for submission to the ninth meeting of the Conference of the Parties;

(c) Discussing the input by the Working Group to the ninth meeting of the Conference of the Parties.

[2] The seventh meeting of the Working Group on Development will include a one-day workshop on land-use planning and the siting of hazardous activities which will be jointly held with the Espoo Convention, its Protocol on SEA and the ECE Housing and Land Management Committee.

Annex I

Draft terms of reference of the small group of legal experts

I. Background and mandate

1. At its eighth meeting (Geneva, 3–5 December 2014), the Conference of the Parties requested the Working Group on the Development of the Convention (Working Group on Development) to develop guidance for adoption by the Conference of the Parties related to the scope of mutual assistance (art. 12), land-use planning (art. 7) and the review of compliance (art. 23).

2. In order to support its work with regard to specific legal questions related to the development of the guidance, the Working Group has decided to establish a small group of legal experts. The small group will report to the Working Group.

II. Objective

3. The objective of the small group of legal experts will be mainly to assist the Working Group in legal considerations, in particular with regard to the development of guidance by the Conference of the Parties. Among the aspects that the group will be requested to deal with are:

(a) **Mutual assistance**: The Conference of the Parties requested the Working Group to prepare a draft decision to clarify the scope of mutual assistance set out in article 12 of the Convention, outlining to what extent mutual assistance refers to any industrial accident or to industrial accidents with transboundary effects only, for review and possible adoption at its ninth meeting;

(b) **Review of compliance**: The Conference of the Parties requested the Working Group on Development, in cooperation with the Working Group on Implementation, to consider the introduction of a compliance mechanism and to prepare a draft decision for review and possible adoption at its ninth meeting, with due regard to the mandate and functioning of the Working Group on Implementation;

(c) Any other task assigned by the Working Group.

III. Timetable

4. The small group is expected to start its work on 11 May 2015. Its mandate will end with the successful completion of the above-mentioned mandate and objectives.

IV. Method of work

5. The small group of legal experts is expected to work via e-mail and other electronic means during its mandate; it might meet face to face briefly, back to back with a Working Group meeting. It will work in English only. To support the liaison with the Working Group, the members of the small group might wish to designate a rapporteur. The rapporteur will facilitate the discussions in the small group and coordinate the forwarding of its considerations to the Working Group.

6. The small group is expected to be comprised of legal experts. For specific issues, the small group might wish to invite to the discussions participants with substantive knowledge of the topic under discussion, further to the substantive discussions in the framework of the Working Group.

7. The small group will decide upon its report or proposal to the Working Group on the basis of consensus among its members.

V. Membership

8. The small group is open-ended and will comprise experts from Parties. Non-Parties, representatives of civil society and other international organizations may take part as observers in the work of the small group to provide additional expertise.

VI. Secretariat support

9. The Convention secretariat will support the work of the small group of legal experts, in close cooperation with the rapporteur, and facilitate the preparation of documents.

Annex II

Draft terms of reference of the small group of experts on land-use planning

I. Background and mandate

1. At its eighth meeting (Geneva, 3–5 December 2014) the Conference of the Parties to the Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) requested the Working Group on the Development of the Convention to review a guidance document on land-use planning, on the basis of a draft drawn up with external expertise, for possible adoption at the ninth or, alternatively, tenth meeting of the Conference of the Parties. The guidance document should:

(a) Clarify the link between the general provisions of the Convention in article 3, paragraph 1, and the land-use planning/siting procedures in article 7 of the Convention;

(b) Explain how the notion of land-use plans and programmes used in other relevant international multilateral environmental agreements and legal instruments applies to the Convention's provisions on the siting of hazardous activities;

(c) Be aligned with the provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the Seveso III Directive.[a]

2. The European Investment Bank will lead and finance this activity, which will be implemented by a consultant in cooperation with the secretariats of the Industrial Accidents Convention, the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context and the United Nations Economic Commission for Europe (ECE) Committee on Housing and Land Management.

3. To support the Working Group in the development of guidance by the Conference of the Parties on land-use planning, the Working Group has decided to establish a small group of experts on land-use planning.

4. The small group will report to the Working Group. It will inform the Working Group of its review of the draft guidance document on safety and land-use planning and forward a final draft reviewed document to the seventh meeting of the Working Group.

II. Objective

5. The objective of the small group will be to assist the Working Group in reviewing the consultant's work on the development of the guidance document on safety and land-use planning.

[a] Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

III. Planned activities and outputs

6. The small group will undertake the following activities:

(a) Examine the outline, initial and intermediate drafts of the guidance document on land-use planning prepared by the consultant regarding:

(i) Clarification of the link between the general provisions of the Convention in article 3, paragraph 1, and the land-use planning/siting procedures in article 7 of the Convention;

(ii) Explanation of how the notion of land-use plans and programmes used in other relevant international multilateral environmental agreements and legal instruments applies to the Convention's provisions on the siting of hazardous activities;

(iii) Alignment with the provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the Seveso III Directive;

(iv) Identification and inclusion of good practice on safety, land-use planning and siting;

(v) Incorporation of the conclusions and recommendations of the joint seminar on land-use planning around hazardous industrial sites;

(b) Agree on a final draft of the guidance document on land-use planning, to be presented to the Working Group.

7. The small group will prepare, in particular, the following outputs:

(a) Comments on the initial outline and elements of the draft guidance document on land-use planning with recommendations to the Working Group;

(b) Comments on the final draft guidance document on land-use planning with recommendations to the Working Group.

IV. Timetable

8. The small group is expected to start its work on 11 May 2015. Its mandate will end with the successful delivery of the above-mentioned activities and outputs.

V. Method of work

9. The small group is expected to work via e-mail and other electronic means during its mandate; if necessary, it might meet face to face in the margins of or back to back with the Working Group meetings. It will work in English only.

10. The small group will decide upon its recommendations to the Working Group on the basis of consensus among experts representing ECE member States. It might wish to designate a rapporteur, who will facilitate the discussions in the small group and coordinate the forwarding of its considerations to the Working Group.

VI. Membership

11. The small group is open-ended and will comprise experts from Parties, Non-Parties, representatives of industry, civil society and other international organizations may take part as observers in the work of the small group to provide additional expertise.

VII. Secretariat support

12. The Convention secretariat will support the work of the small group by maintaining a consolidated draft of the guidance document as prepared by the consultant.